# Assembly Bill No. 3070

## CHAPTER 327

An act to amend Sections 14166.1, 14166.2, 14166.35, 14166.5, 14166.9, 14166.10, 14166.11, 14166.12, 14166.13, 14166.14, 14166.16, 14166.17, 14166.18, 14166.20, 14166.21, and 14166.23 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 18, 2006. Filed with Secretary of State September 18, 2006.]

### LEGISLATIVE COUNSEL'S DIGEST

AB 3070, Committee on Health. Medi-Cal: demonstration project: hospital funding.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law establishes the Medi-Cal Hospital/Uninsured Care Demonstration Project Act, which revises hospital reimbursement methodologies under the Medi-Cal program in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals that provide care to Medi-Cal beneficiaries and uninsured patients. This demonstration project provides for funding, in supplementation of Medi-Cal reimbursement, to various hospitals, including designated public hospitals, nondesignated public hospitals, and private hospitals, as defined in accordance with certain provisions relating to disproportionate share hospitals.

Existing law requires the department, with respect to each project year beginning after the 2005–06 project year, to determine an adjusted baseline funding amount for each designated public hospital to reflect any increase or decrease in volume.

This bill would make specified changes to the calculation of this adjusted baseline funding amount.

Existing law provides for the payment of safety net care pool funds to designated public hospitals, or governmental entities with which they are affiliated, pursuant to the demonstration project. Existing law requires that the department claim safety net care pool funds using the optimal combination of hospital certified public expenditures and certified public expenditures of a hospital that operates nonhospital clinics or provides physician, nonphysician practitioner, or other health care services that are identified as hospital services under the demonstration project.

This bill would, in addition, include certified public expenditures of a governmental entity with which a hospital described above is affiliated

among the expenditures that the department may use to claim safety net care pool funds. The bill would make other changes regarding the expenditures that the department may use to claim those funds.

Existing law provides for the payment of stabilization funding to certain disproportionate share hospitals under the demonstration project. Existing law specifies the payments required to be made to private hospitals under the demonstration project.

Existing law establishes the Private Hospital Supplemental Fund, and allows the California Medical Assistance Commission to distribute certain amounts from the fund to private hospitals that satisfy specified criteria. Existing law authorizes the payment of the amount of any stabilization funding transferred to the Private Hospital Supplemental Fund with respect to a project year for services furnished in the same project year, regardless of when the stabilization funds become available, provided the payment is consistent with other applicable federal or state law requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

This bill would, in addition, apply this payment authorization to the amount of intergovernmental transfers deposited to the fund pursuant to specified provisions, together with the associated federal reimbursement.

The bill would prohibit a private hospital that receives payment from the fund for a particular project year from submitting a notice for the termination of its participation in a certain selective provider contracting program until the later of specified dates.

This bill would include among the payments required to be made to private hospitals any stabilization funding payable to project year private DSH hospitals for a project year.

Existing law requires the Director of Health Services, with respect to each project year, to determine a baseline funding amount for each base year private DSH hospital that is also a project year private DSH hospital, as defined. Existing law requires, with respect to each project year beginning after the 2005–06 project year, an aggregate project year private hospital adjusted baseline funding amount be determined.

This bill would make specified changes to the calculation of the aggregate project year private hospital adjusted baseline funding amount.

Existing law requires the department to compute payment adjustment amounts and supplemental payment adjustment amounts for each nondesignated public hospital that is an eligible hospital for the project year, and to make interim payments, as specified.

This bill would, instead, require the department to pay to each nondesignated public hospital that is an eligible hospital for the project year disproportionate share hospital payment adjustments, as specified. The bill would make certain changes to the calculation of those adjustments, and would require the payment of interim payments to certain nondesignated public hospitals on October 1 and December 1 of each project year.

Existing law requires the department to add to specified payment adjustments for a nondesignated public hospital a pro rata share of any stabilization funding to be allocated and paid based on those payment adjustments.

This bill would prohibit the federal share of any stabilization funding allocated and paid under these provisions from being drawn from the allotment of federal funding for Medicaid disproportionate share hospital payment adjustments for California specified under certain provisions of federal law.

Existing law establishes the Nondesignated Public Hospital Supplemental Fund for distribution to nondesignated public hospitals that satisfy specified criteria. Existing law requires that each nondesignated public hospital that meets specified criteria receive no less from the Nondesignated Public Hospital Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior supplemental funds for the 2002–03 fiscal year.

This bill would require, instead, that such a hospital receive no less than that amount, minus the total amount of intergovernmental transfers made by or on behalf of the hospital pursuant to specified provisions of law for the same fiscal year.

Existing law requires the director, with respect to each project year, to determine a baseline funding amount for each nondesignated public hospital that was an eligible hospital under specified provisions of law for both the 2004–05 fiscal year and the project year.

This bill would require that the baseline funding amount for each nondesignated public hospital reflect a reduction for the total amount of intergovernmental transfers made pursuant to specified provisions of law for the 2004–05 state fiscal year by the nondesignated public hospital, or on its behalf by the governmental entity with which it is affiliated.

Existing law requires that, with respect to each project year beginning after the 2005–06 project year, an aggregate nondesignated public hospital adjusted baseline funding amount be determined, as specified.

This bill would make specified changes to the calculation of the aggregate nondesignated public hospital adjusted baseline funding amount.

The bill would prohibit a nondesignated public hospital that receives payment of baseline funding amounts pursuant to these provisions for a particular project year from submitting a notice for the termination of its participation in a certain selective provider contracting program until the later of specified dates.

Existing law requires that, with respect to each project year, the total amount of stabilization funding be the sum of certain amounts, including specified state general funds.

This bill would allow those state general funds to be used to calculate the total amount of stabilization funding only to the extent that the funds are in excess of specified amounts.

Existing law requires that, with respect to the 2005–06 and 2006–07 project years, the stabilization funding be allocated in a specified manner,

including $8,000,000 to San Mateo Medical Center, and an amount equal to 0.56% of the total stabilization funding amount to nondesignated public hospitals.

This bill would provide that all or a portion of the $8,000,000 to San Mateo Medical Center may be paid as disproportionate share hospital payments in addition to the hospital's allocation that would otherwise be determined under specified provisions of law, and would require that this amount be disregarded in the application of certain limitations on disproportionate share hospital payments and safety net care pool payments. The bill would change the amount of stabilization funding to be paid to nondesignated public hospitals to 0.64% of the total stabilization funding amount.

The bill would prohibit the allocation and payment of stabilization funding from reducing the amount otherwise paid or payable to a hospital under these provisions or any other provision of law, except as specified.

Existing law establishes the Distressed Hospital Fund, and provides for payments from the fund to hospitals that meet specified criteria. Existing law requires that, after April 1, 2007, in the event that funding under these provisions is insufficient to make payments to hospitals pursuant to specified provisions of law, funds in the Distressed Hospital Fund first be available for use under contracts negotiated by the California Medical Assistance Commission for hospitals contracting under a specified selective provider contracting program, to the extent funds are available.

This bill would make this requirement applicable every April 1 after April 1, 2007, to the extent funds are available on or after April 1 for the particular project year.

Existing law establishes the Health Care Support Fund, and requires that amounts in the fund be paid as specified, including to hospitals for services rendered to Medi-Cal beneficiaries and the uninsured in an amount necessary to meet certain minimum funding levels, taking into account all other payments under these provisions.

This bill would require that certain payments made to distressed hospitals not be considered in the total payments used to determine whether these minimum funding levels have been met.

*The people of the State of California do enact as follows:*

SECTION 1. Section 14166.1 of the Welfare and Institutions Code is amended to read:

14166.1. For purposes of this article, the following definitions shall apply:

(a) "Allowable costs" means those costs recognized as allowable under Medicare reasonable cost principles and additional costs recognized under the demonstration project, including those expenditures identified in Appendix D to the Special Terms and Conditions for the demonstration project. Allowable costs under this subdivision shall be determined in

accordance with the Special Terms and Conditions for the demonstration project and demonstration project implementation documents approved by the federal Centers for Medicare and Medicaid Services.

(b) "Base year private DSH hospital" means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of subdivision (a) of Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for the 2004–05 state fiscal year.

(c) "Demonstration project" means the Medi-Cal Hospital/Uninsured Care Demonstration, Number 11-W-00193/9, as approved by the federal Centers for Medicare and Medicaid Services.

(d) "Designated public hospital" means any one of the following 22 hospitals identified in Attachment C, "Government-operated Hospitals to be Reimbursed on a Certified Public Expenditure Basis," to the Special Terms and Conditions for the demonstration project issued by the federal Centers for Medicare and Medicaid Services:

(1) UC Davis Medical Center.
(2) UC Irvine Medical Center.
(3) UC San Diego Medical Center.
(4) UC San Francisco Medical Center.
(5) UC Los Angeles Medical Center, including Santa Monica/UCLA Medical Center.
(6) LA County Harbor/UCLA Medical Center.
(7) LA County Martin Luther King Jr. Charles R. Drew Medical Center.
(8) LA County Olive View UCLA Medical Center.
(9) LA County Rancho Los Amigos National Rehabilitation Center.
(10) LA County University of Southern California Medical Center.
(11) Alameda County Medical Center.
(12) Arrowhead Regional Medical Center.
(13) Contra Costa Regional Medical Center.
(14) Kern Medical Center.
(15) Natividad Medical Center.
(16) Riverside County Regional Medical Center.
(17) San Francisco General Hospital.
(18) San Joaquin General Hospital.
(19) San Mateo Medical Center.
(20) Santa Clara Valley Medical Center.
(21) Tuolumne General Hospital.
(22) Ventura County Medical Center.

(e) "Federal medical assistance percentage" means the federal medical assistance percentage applicable for federal financial participation purposes for medical services under the Medi-Cal state plan pursuant to Section 1396b(a) of Title 42 of the United States Code.

(f) "Nondesignated public hospital" means a public hospital defined in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.

(g) "Project year" means the applicable state fiscal year of the Medi-Cal Hospital/Uninsured Care Demonstration Project.

(h) "Project year private DSH hospital" means a nonpublic hospital, nonpublic-converted hospital, or converted hospital, as those terms are defined in paragraphs (26), (27), and (28), respectively, of subdivision (a) of Section 14105.98, that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98, for the particular project year.

(i) "Prior supplemental funds" means the Emergency Services and Supplemental Payment Fund, the Medi-Cal Medical Education Supplemental Payment Fund, the Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund, and the Small and Rural Hospital Supplemental Payments Fund, established under Sections 14085.6, 14085.7, 14085.8, and 14085.9, respectively.

(j) "Private hospital" means a nonpublic hospital, nonpublic converted hospital, or converted hospital, as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.

(k) "Safety net care pool" means the federal funds available under the Medi-Cal Hospital/Uninsured Care Demonstration Project to ensure continued government support for the provision of health care services to uninsured populations.

(*l*) "Uninsured" shall have the same meaning as that term has in the Special Terms and Conditions issued by the federal Centers for Medicare and Medicaid Services for the demonstration project.

SEC. 2. Section 14166.2 of the Welfare and Institutions Code is amended to read:

14166.2. (a) The demonstration project shall be implemented and administered pursuant to this article.

(b) The director may modify any process or methodology specified in this article to the extent necessary to comply with federal law or the terms of the demonstration project, but only if the modification results in the equitable distribution of funding, consistent with this article, among the hospitals affected by the modification. If the director, after consulting with affected hospitals, determines that an equitable distribution cannot be achieved, the director shall execute a declaration stating that this determination has been made. The director shall retain the declaration and provide a copy, within five working days of the execution of the declaration, to the fiscal and appropriate policy committees of the Legislature. This article shall become inoperative on the date that the director executes a declaration pursuant to this subdivision, and as of January 1 of the following year shall be repealed.

(c) The director shall administer the demonstration project and related Medi-Cal payment programs in a manner that attempts to maximize available payment of federal financial participation, consistent with federal law, the Special Terms and Conditions for the demonstration project

issued by the federal Centers for Medicare and Medicaid Services, and this article.

(d) As permitted by the federal Centers for Medicare and Medicaid Services, this article shall be effective with regard to services rendered throughout the term of the demonstration project, and retroactively, with regard to services rendered on or after July 1, 2005, but prior to the implementation of the demonstration project.

(e) In the administration of this article, the state shall continue to make payments to hospitals that meet the eligibility requirements for participation in the supplemental reimbursement program for hospital facility construction, renovation, or replacement pursuant to Section 14085.5 and shall continue to make inpatient hospital payments not covered by the contract. These payments shall not duplicate any other payments made under this article.

(f) The department shall continue to operate the selective provider contracting program in accordance with Article 2.6 (commencing with Section 14081) in a manner consistent with this article. A designated public hospital participating in the certified public expenditure process shall maintain a selective provider contracting program contract. These contracts shall continue to be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

(g) In the event of a final judicial determination made by any state or federal court that is not appealed in any action by any party or a final determination by the administrator of the Centers for Medicare and Medicaid Services that federal financial participation is not available with respect to any payment made under any of the methodologies implemented pursuant to this article because the methodology is invalid, unlawful, or is contrary to any provision of federal law or regulation, the director may modify the process or methodology to comply with law, but only if the modification results in the equitable distribution of demonstration project funding, consistent with this article, among the hospitals affected by the modification. If the director, after consulting with affected hospitals, determines that an equitable distribution cannot be achieved, the director shall execute a declaration stating that this determination has been made. The director shall retain the declaration and provide a copy, within five working days of the execution of the declaration, to the fiscal and appropriate policy committees of the Legislature. This article shall become inoperative on the date that the director executes a declaration pursuant to this subdivision, and as of January 1 of the following year shall be repealed.

(h) (1) The department may adopt regulations to implement this article. These regulations may initially be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For purposes of this article, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and

safety or general welfare. Any emergency regulations adopted pursuant to this section shall not remain in effect subsequent to 24 months after the effective date of this article.

(2) As an alternative, and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other provision of law, the department may implement and administer this article by means of provider bulletins, manuals, or other similar instructions, without taking regulatory action. The department shall notify the fiscal and appropriate policy committees of the Legislature of its intent to issue a provider bulletin, manual, or other similar instruction, at least five days prior to issuance. In addition, the department shall provide a copy of any provider bulletin, manual, or other similar instruction issued under this paragraph to the fiscal and appropriate policy committees of the Legislature. The department shall consult with interested parties and appropriate stakeholders, regarding the implementation and ongoing administration of this article.

(i) To the extent necessary to implement this article, the department shall submit, by September 30, 2005, to the federal Centers for Medicare and Medicaid Services proposed amendments to the Medi-Cal state plan, including, but not limited to, proposals to modify inpatient hospital payments to designated public hospitals, modify the disproportionate share hospital payment program, and provide for supplemental Medi-Cal reimbursement for certain physician and nonphysician professional services. The department shall, subsequent to September 30, 2005, submit any additional proposed amendments to the Medi-Cal state plan that may be required by the federal Centers for Medicare and Medicaid Services, to the extent necessary to implement this article.

(j) Each designated public hospital shall implement a comprehensive process to offer individuals who receive services at the hospital the opportunity to apply for the Medi-Cal program, the Healthy Families Program, or any other public health coverage program for which the individual may be eligible, and shall refer the individual to those programs, as appropriate.

(k) In any judicial challenge of the provisions of this article, nothing shall create an obligation on the part of the state to fund any payment from state funds due to the absence or shortfall of federal funding.

(*l*) Any reference in this article to the "Medicare cost report" shall be deemed a reference to the Medi-Cal cost report to the extent that report is approved by the federal Centers for Medicare and Medicaid Services for any of the uses described in this article.

SEC. 3. Section 14166.35 of the Welfare and Institutions Code is amended to read:

14166.35. (a) For each project year, designated public hospitals shall be eligible to receive the following:

(1) Payments for Medi-Cal inpatient hospital services and supplemental payments for physician and nonphysician practitioner services, as specified in Section 14166.4.

(2) Disproportionate share hospital payment adjustments, as specified in Section 14166.6.

(3) Safety net care pool funding, as specified in Section 14166.7.

(4) Stabilization funding, as specified in Section 14166.75.

(5) Grants to distressed hospitals as negotiated by the California Medical Assistance Commission pursuant to Section 14166.23.

(b) Payments under this section shall be in addition to other payments that may be made in accordance with law.

SEC. 4. Section 14166.5 of the Welfare and Institutions Code is amended to read:

14166.5. (a) With respect to each project year, the director shall determine a baseline funding amount for each designated public hospital. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004–05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081).

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(5) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The baseline funding amount for each designated public hospital shall reflect a reduction for the total amount of intergovernmental transfers made pursuant to Sections 14085.6, 14085.7, 14085.8, 14085.9, and 14163 for the 2004–05 state fiscal year by the designated public hospital, or the governmental entity with which it is affiliated.

(c) With respect to each project year beginning after the 2005–06 project year, the department shall determine an adjusted baseline funding amount for each designated public hospital to reflect any increase or decrease in volume. The adjustment for designated public hospitals shall be calculated as follows:

(1) Applying the cost-finding methodology approved under the demonstration project, and applying accounting and reporting practices consistent with those applied in paragraph (2), the department shall determine the total allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, in rendering hospital

services that would be recognized under the demonstration project to Medi-Cal beneficiaries and the uninsured during the 2004–05 state fiscal year.

(2) Applying the cost-finding methodology approved under the demonstration project, and applying accounting and reporting practices consistent with those applied in paragraph (1), the department shall determine the total allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, in rendering hospital services under the demonstration project to Medi-Cal beneficiaries and the uninsured during the state fiscal year preceding the project year for which the volume adjustment is being calculated.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage determined in subparagraph (B) to that amount that results from the hospital's baseline funding amount determined under subdivision (a) as adjusted by subdivision (b), except for the reduction for the amount of intergovernmental transfers made pursuant to Section 14163, minus the amount of disproportionate share hospital payments in paragraph (4) of subdivision (a).

(4) The designated public hospital's adjusted baseline for the project year is the amount determined for the hospital in subdivision (a) as adjusted by subdivision (b), plus the amount in subparagraph (C) of paragraph (3).

(5) Notwithstanding paragraphs (3) and (4), when, as determined by the department, in consultation with the designated public hospital, there has been a material reduction in patient services at the designated public hospital during the project year, and the reduction has resulted in a diminution of access for Medi-Cal and uninsured patients and a related reduction in total costs at the designated public hospital of at least 20 percent, the department may utilize current or adjusted data that are reflective of the diminution of access, even if the data are not annual data, to determine the hospital's adjusted baseline amount.

(d) The aggregate designated public hospital baseline funding amount for each project year shall be the sum of all baseline funding amounts determined under subdivisions (a) and (b), as adjusted in subdivision (c), as appropriate, for all designated public hospitals.

(e) (1) The adjustments set forth in subdivision (c) of Section 14166.13 and in subdivision (c) shall not apply if either of the following conditions exist:

(A) The difference between the percentage adjustment in subparagraph (B) of paragraph (3) of subdivision (c) of this section, computed in the aggregate for designated public hospitals, and subparagraph (B) of paragraph (3) of subdivision (c) of Section 14166.13 is greater than 3 percentage points.

(B) The stabilization funding amount from the Health Care Support Fund, established pursuant to Section 14166.21, as determined in Section 14166.20 for any project year is less than one hundred fifty-three million dollars ($153,000,000).

(2) Notwithstanding paragraph (1), the department may apply the adjustments set forth in paragraph (5) of subdivision (c).

SEC. 5. Section 14166.9 of the Welfare and Institutions Code is amended to read:

14166.9. (a) The department, in consultation with the designated public hospitals, shall determine the mix of sources of federal funds for payments to the designated public hospitals in a manner that provides baseline funding to hospitals and maximizes federal Medicaid funding to the state during the term of the demonstration project. Federal funds shall be claimed according to the following priorities:

(1) The certified public expenditures of the designated public hospitals for inpatient hospital services and physician and nonphysician practitioner services, as identified in subdivision (e) of Section 14166.4, rendered to Medi-Cal beneficiaries.

(2) Federal disproportionate share hospital allotment, subject to the federal-hospital specific limit, in the following order:

(A) Those hospital expenditures that are eligible for federal financial participation only from the federal disproportionate share hospital allotment.

(B) Payments funded with intergovernmental transfers, consistent with the requirements of the demonstration project, up to the hospital's baseline funding amount or adjusted baseline funding amount, as appropriate, for the project year.

(C) Any other certified public expenditures for hospital services that are eligible for federal financial participation from the federal disproportionate share hospital allotment.

(3) Safety net care pool funds, using the optimal combination of hospital certified public expenditures and certified public expenditures of a hospital, or governmental entity with which the hospital is affiliated, that operates nonhospital clinics or provides physician, nonphysician practitioner, or other health care services that are not identified as hospital services under the Special Terms and Conditions for the demonstration project.

(4) Health care expenditures of the state that represent alternate state funding mechanisms approved by the federal Centers for Medicare and Medicaid Services under the demonstration project as set forth in Section 14166.22.

(b) The department shall implement these priorities, to the extent possible, in a manner that minimizes the redistribution of federal funds that are based on the certified public expenditures of the designated public hospitals.

(c) The department may adjust the claiming priorities to the extent that these adjustments result in additional federal Medicaid funding during the

term of the demonstration project or facilitate the objectives of subdivision (b).

(d) There is hereby established in the State Treasury the "Demonstration Disproportionate Share Hospital Fund," consisting of all federal funds received by the department with respect to the certified public expenditures claimed pursuant to subparagraphs (A) and (C) of paragraph (2) of subdivision (a). Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department solely for the purposes specified in Section 14166.6.

(e) All federal safety net care pool funds claimed and received by the department based on health care expenditures incurred by the designated public hospitals, or the governmental entities with which they are affiliated, shall be deposited in the Health Care Support Fund, established pursuant to Section 14166.21.

SEC. 6. Section 14166.10 of the Welfare and Institutions Code is amended to read:

14166.10. (a) Payments to private hospitals under the demonstration project shall include, as applicable, all of the following:

(1) Payments under selective provider contracts with the department negotiated by the California Medical Assistance Commission in accordance with Article 2.6 (commencing with Section 14081).

(2) Disproportionate share hospital replacement payments under Section 14166.11.

(3) Supplemental payments under Section 14166.12.

(4) Payments to distressed hospitals as negotiated by the California Medical Assistance Commission pursuant to Section 14166.23.

(5) Payments of amounts described in Section 14166.14.

(b) Payments under subdivision (a) shall be in addition to other payments that may be made in accordance with law.

SEC. 7. Section 14166.11 of the Welfare and Institutions Code is amended to read:

14166.11. (a) The department shall pay to each project year private DSH hospital the amounts that would have been paid under the disproportionate share hospital program using the formulas and methodology in effect for the 2004–05 fiscal year as more specifically set forth in this section.

(b) For each project year, the department shall develop and issue a tentative and final disproportionate share list in accordance with Section 14105.98.

(c) For each project year, the department shall perform the computations set forth in paragraphs (1) to (4), inclusive, and (6) to (8), inclusive, of subdivision (am) and paragraphs (1) to (3), inclusive, of subdivision (an) of Section 14105.98, subject to the following:

(1) For purposes of these computations, the maximum state disproportionate share hospital allotment for California for each project year shall be the allotment effective during the federal fiscal year beginning during the project year.

(2) All references to October 1 shall be deemed to be references to July 1.

(3) Notwithstanding any other provision of law, the transfer amounts for the Medi-Cal Inpatient Payment Adjustment Fund to the Health Care Deposit Fund, as provided for pursuant to paragraph (2) of subdivision (d) of Section 14163 shall be deemed to be eighty-five million dollars ($85,000,000) for purposes of the computations under this subdivision.

(4) Notwithstanding any other provision of law, the payments made under this section shall be treated as payment adjustments made under Section 14105.98 for purposes of computing the OBRA 1993 payment limitation, as defined in paragraph (24) of subdivision (a) of Section 14105.98, the low-income utilization rate, and all related computations.

(5) Subdivision (m) of Section 14105.98 shall apply to payments made under this section.

(d) Interim payments shall be made for the first five months of each project year as follows:

(1) Interim payments shall be made to each private hospital identified on a tentative disproportionate share list for the project year that was also on the final disproportionate share list for the prior fiscal year. The interim payment amount per month for each of these hospitals shall equal one-twelfth of the total payments, excluding stabilization funds, made to the hospital for the prior fiscal year under this section or under Section 14105.98. The interim payment amount may be adjusted to reflect any changes in the total payment amounts, excluding stabilization funds, projected to be made under this section for the project year.

(2) The computation of interim payments described in this subdivision shall be made promptly after the department issues the tentative disproportionate share hospital list for the project year.

(3) The first interim payment for a project year shall be made to each hospital no later than 60 days after the issuance of the tentative disproportionate share hospital list for that project year and shall include the interim payment amounts for all prior months in the project year. Subsequent interim payments for a project year shall be made on the last checkwrite of each month made by the Controller until interim payments for the first five months of the project year have been made.

(4) The department may recover any interim payments for a project year made under this subdivision to a hospital that is not on the final disproportionate share hospital list for that project year. These interim payments shall be considered an overpayment. The department shall issue a demand for repayment to a hospital at least 30 days prior to taking action to recover the overpayment. After the 30-day period, the department may recover the overpayment using any of the methods set forth in Section 14115.5 or subdivision (c) of Section 14172.5. Any offset shall be subject to Section 14115.5 or subdivision (d) of Section 14172.5. No other provision of Section 14172.5 shall be applicable with respect to the recovery of overpayments under this subdivision. A hospital may appeal the department’s determination of an overpayment under this subdivision

pursuant to the appeal procedures set forth in Sections 51016 to 51047, inclusive, of Title 22 of the California Code of Regulations, and seek judicial review of the final administrative decision pursuant to Section 14171, provided that the only issues that may be raised in this appeal are whether the hospital, but for inadvertent error by the department, was on the final disproportionate share list for the project year and whether the department's computation of the overpayment amount is correct. If the hospital is reinstated on the final disproportionate share list pursuant to Section 14105.98, the department shall promptly refund any amount recovered under this paragraph.

(e) Tentative adjusted monthly payments shall be made for the months of December through March of each project year to each private hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An adjusted payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department, plus any applicable interim estimated stabilization funding pursuant to subdivision (b) of Section 14166.14.

(2) A tentative adjusted monthly payment amount shall be computed for each hospital equal to the adjusted payment amount for the hospital, minus the aggregate interim payments made to the hospital for the project year, divided by seven.

(3) The computation of tentative adjusted monthly payments described in this subdivision shall be made promptly after the department issues the final disproportionate share hospital list for the project year.

(4) The first tentative adjusted monthly payment for a project year shall be made to each hospital by January 15 or within 60 days after the issuance of the final disproportionate share hospital list for the project year, whichever is later, and shall include the tentative adjusted monthly payment amounts for all prior months in the project year for which those payments are due. Subsequent tentative adjusted monthly payments for a project year shall be made on the last checkwrite of each month made by the Controller until tentative adjusted monthly payments for December through March of the project year have been made.

(f) Three data corrected payments shall be made on the last checkwrite of the month made by the Controller for the months of April through June of each project year to each private hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An annual data corrected payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently

computed by the department, plus any interim estimated stabilization funding. The annual data corrected payment amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the adjusted payment amounts computed under paragraph (1) of subdivision (e).

(2) A monthly data corrected payment amount shall be computed for each hospital equal to the annual data corrected payment amount for the hospital, minus both the aggregate interim payments made to the hospital for the project year and the aggregate tentative adjusted monthly payments made to the hospital, divided by three.

(g) Payment under subdivisions (d), (e), and (f) for a month shall be made only to private hospitals open for patient care through the 15th day of the month.

(h) The department shall compute a final adjusted payment amount for each private hospital on the final disproportionate share list for a project year after the completion of the project year and the determination of the amount of stabilization funding available to be paid under this section as follows:

(1) An amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, each as most recently computed by the department. These amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the annual data corrected payment amounts computed under paragraph (1) of subdivision (f) in a manner that ensures that any payments not payable or recouped are redistributed among hospitals eligible for a final adjusted payment amount in accordance with the calculations made pursuant to Section 14105.98.

(2) The department shall add to the amount computed for each hospital under paragraph (1) a pro rata share of any stabilization funding to be allocated and paid under this section, allocated based on the amounts computed under paragraph (1).

(3) The department shall for each hospital for each project year reconcile the total amount paid to the hospital for that project year under subdivisions (d), (e), and (f) with the amount determined under paragraph (2). The department shall issue a report to each hospital setting forth the result of the reconciliation that shall include the department's computation, data, and identification of data sources. The department shall pay to the hospital any underpayment determined as a result of this reconciliation and collect from the hospital any overpayment determined as a result of this reconciliation pursuant to paragraph (4) of subdivision (d).

(4) A hospital may seek to correct the department's data and computations under this section in accordance with the processes undertaken by the department to implement Section 14105.98 in effect during the 2004–05 state fiscal year.

(i) In accordance with the demonstration project, the following shall apply:

(1) Payments under this section shall satisfy the state's obligation to have a payment adjustment program for disproportionate share hospitals under Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396r-4).

(2) Payments under this section and federal financial participation shall not be counted against the state's allotment of federal funding for Medicaid disproportionate share payment adjustments.

(j) (1) For purposes of this subdivision, "federal disproportionate share allotment" means the federal Medicaid disproportionate share hospital allotment specified for California under Section 1396r-4(f) of Title 42 of the United States Code.

(2) In the event any hospital, or any party on behalf of a hospital, shall initiate a case or proceeding in any state or federal court in which the hospital seeks any relief of any sort whatsoever, including, but not limited to, monetary relief, injunctive relief, declaratory relief, or a writ, based in whole or in part on a contention that the hospital is entitled to, or should receive any portion of, the federal disproportionate share hospital allotment for any or all of federal fiscal years 2006 to 2010, inclusive, all of the following shall apply:

(A) No payments shall be made to the hospital pursuant to this section until the case or proceeding is finally resolved, including the final disposition of all appeals.

(B) Any amount computed to be payable to the hospital pursuant to this section for a project year shall be withheld by the department and shall be paid to the hospital only after the case or proceeding is finally resolved, including the final disposition of all appeals, and only if the case or proceeding does not result in any amount being paid or payable to the hospital from the federal disproportionate share hospital allotment for any portion of the project year.

(C) The hospital shall become ineligible to receive any amount pursuant to this section for any project year for which it is determined that the hospital is entitled to be paid any portion of the federal disproportionate share hospital allotment.

(D) Any amount that would have been payable to the hospital pursuant to this section, but is not paid to the hospital because the hospital has become ineligible to receive payments pursuant to this section shall be returned to the state General Fund.

(E) In the event any portion of the federal disproportionate share hospital allotment is applied to payments to any private hospital, the department shall make any additional payments that may be necessary from state funds so that the amount of the disproportionate share hospital payments that are made to designated public hospitals or nondesignated public hospitals is not less than the amount that would have been made if the allotment had not been applied to payments to any private hospital.

(F) A hospital's total project year payment amount determined under this section may be subject to reduction by offset pursuant to Section 14115.5 or 14172.5.

SEC. 8. Section 14166.12 of the Welfare and Institutions Code is amended to read:

14166.12. (a) The California Medical Assistance Commission shall negotiate payment amounts, in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081), from the Private Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to private hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

(b) The Private Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this section, "fund" means the Private Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One hundred eighteen million four hundred thousand dollars ($118,400,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund pursuant to paragraph (2) of subdivision (a) of Section 14166.14.

(4) Any moneys that any county, other political subdivision of the state, or other governmental entity in the state may elect to transfer to the department for deposit into the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal Medicaid laws.

(5) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(6) Any interest that accrues on amounts in the fund.

(e) Any public agency transferring moneys to the fund may, for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public moneys or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(f) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity that qualify for federal financial participation under the

terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(i) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracting program (Article 2.6 (commencing with Section 14081)), and shall not affect provider rates paid under the selective provider contracting program.

(j) Each private hospital that was a private hospital during the 2002–03 fiscal year, received payments for the 2002–03 fiscal year from any of the prior supplemental funds, and, during the project year, satisfies the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, shall receive no less from the Private Hospital Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior supplemental funds for the 2002–03 fiscal year. Each private hospital described in this subdivision shall be eligible for additional payments from the fund pursuant to subdivision (k).

(k) All amounts that are in the fund for a project year in excess of the amount necessary to make the payments under subdivision (j) shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for supplemental payments to private hospitals, which for the project year satisfy the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, and paid for services rendered during the project year pursuant to the selective provider contracting program established under Article 2.6 (commencing with Section 14081).

(*l*) The amount of any stabilization funding transferred to the fund, or the amount of intergovernmental transfers deposited to the fund pursuant to subdivision (o), together with the associated federal reimbursement, with respect to a particular project year, may, in the discretion of the California Medical Assistance Commission, be paid for services furnished in the same project year regardless of when the stabilization funds or intergovernmental transfer funds, and the associated federal reimbursement, become available, provided the payment is consistent with other applicable federal or state law requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

(m) The department shall pay amounts due to a private hospital from the fund for a project year, with the exception of stabilization funding, in up to four installment payments, unless otherwise provided in the hospital's contract negotiated with the California Medical Assistance Commission, except that hospitals that are not described in subdivision (j) shall not receive the first installment payment. The first payment shall be made as soon as practicable after the issuance of the tentative disproportionate share hospital list for the project year, and in no event later than January 1 of the project year. The second and subsequent payments shall be made after the issuance of the final disproportionate hospital list for the project year, and shall be made only to hospitals that are on the final disproportionate share hospital list for the project year. The second payment shall be made by February 1 of the project year or as soon as practicable after the issuance of the final disproportionate share hospital list for the project year. The third payment, if scheduled, shall be made by April 1 of the project year. The fourth payment, if scheduled, shall be made by June 30 of the project year. This subdivision does not apply to hospitals that are scheduled to receive payments from the fund because they meet the criteria under Section 14085.7 and do not meet the criteria under Section 14085.6, 14085.8, or 14085.9, which shall be paid in accordance with the applicable contract or contract amendment negotiated by the California Medical Assistance Commission.

(n) The department shall pay stabilization funding transferred to the fund in amounts negotiated by the California Medical Assistance Commission and shall pay the scheduled payments in accordance with the applicable contract or contract amendment.

(o) Payments to private hospitals that are eligible to receive payments pursuant to Section 14085.6, 14085.7, 14085.8, or 14085.9 may be made using funds transferred from governmental entities to the state, at the option of the governmental entity. Any payments funded by intergovernmental transfers shall remain with the private hospital and shall not be transferred back to any unit of government. An amount equal to 25 percent of the amount of any intergovernmental transfer made in the project year that results in a supplemental payment made for the same project year to a project year private DSH hospital designated by the governmental entity that made the intergovernmental transfer shall be deposited in the fund for distribution as determined by the California Medical Assistance Commission. An amount equal to 75 percent shall be deposited in the fund and distributed to the private hospitals designated by the governmental entity.

(p) A private hospital that receives payment pursuant to this section for a particular project year shall not submit a notice for the termination of its participation in the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) until the later of the following dates:

(1) On or after December 31 of the next project year.

(2) The date specified in the hospital's contract, if applicable.

SEC. 9. Section 14166.13 of the Welfare and Institutions Code is amended to read:

14166.13. (a) With respect to each project year, the director shall determine a baseline funding amount for each base year private DSH hospital that is also a project year private DSH hospital. A private hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during the 2004–05 state fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081), or under the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The aggregate project year private DSH hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a).

(c) With respect to each project year beginning after the 2005–06 project year, an aggregate project year private hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), for inpatient hospital services rendered during the 2004–05 fiscal year for project year private DSH hospitals, less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue paid or payable for inpatient hospital services rendered during the fiscal year immediately preceding the project year for which the private hospital adjusted baseline funding amount is being calculated for project year private DSH hospitals. The aggregate total revenue for services rendered in the relevant preceding fiscal year shall include the payments described in paragraphs (1) and (6) of subdivision (a), and all other payments made to project year private DSH hospitals under this article, excluding disproportionate share hospital replacement payments made

under Section 14166.11, stabilization funding under Section 14166.14, and distressed hospital funding under Section 14166.23 and paragraph (3) of subdivision (b) of Section 14166.20.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage in subparagraph (B) to the amount determined by subtracting the total amount of payments described in paragraph (5) of subdivision (a) from the aggregate project year private DSH hospital baseline funding amount determined under subdivision (b).

(4) The aggregate private hospital adjusted baseline funding amount is the amount determined in paragraph (1), plus the amount determined in subparagraph (C), plus the amount in paragraph (5) of subdivision (a).

SEC. 10. Section 14166.14 of the Welfare and Institutions Code is amended to read:

14166.14. The amount of any stabilization funding payable to the project year private DSH hospitals under Section 14166.20 for a project year, which amount shall not include the amount of stabilization funding paid or payable to hospitals prior to the computation of the stabilization funding under Section 14166.20, plus any amount payable to project year private DSH hospitals under paragraph (1) of subdivision (b) of Section 14166.21, shall be allocated as follows:

(a) (1) To fund any shortfall due under Section 14166.11.

(2) An amount shall be transferred to the Private Hospital Supplemental Fund established pursuant to Section 14166.12, as may be necessary so that the amount for the Private Hospital Supplemental Fund for the project year, including all funds previously transferred to, or deposited in, the Private Hospital Supplemental Fund for the project year, is not less than the Private Hospital Supplemental Fund base amount determined pursuant to subdivision (j) of Section 14166.12.

(3) The amounts paid or transferred under paragraphs (1) and (2) shall be reduced pro rata if there is not sufficient funding described under paragraphs (1) and (2).

(b) Of the stabilization funding remaining, after allocations pursuant to subdivision (a), that are payable to project year private DSH hospitals, 66.4 percent shall be allocated and distributed among those hospitals pro rata based on the amounts determined in accordance with Section 14166.11, and 33.6 percent shall be transferred to the Private Hospital Supplemental Fund.

SEC. 11. Section 14166.16 of the Welfare and Institutions Code is amended to read:

14166.16. (a) The department shall pay to each nondesignated public hospital that is an eligible hospital for the project year, as determined under Section 14105.98, disproportionate share hospital payment adjustments as more specifically set forth in this section.

(b) For each project year, the department shall develop and issue a tentative and final disproportionate share list in accordance with Section 14105.98.

(c) (1) The department shall compute, for each nondesignated public hospital that is an eligible disproportionate share hospital for the project year, the payment adjustment amounts as determined under paragraphs (1) to (4), inclusive, and (6) to (8), inclusive, of subdivision (am) of Section 14105.98, and the supplemental payment adjustment amounts as determined under paragraphs (1) to (3), inclusive, of subdivision (an) of Section 14105.98.

(2) The department shall perform the computations set forth in Section 14163 to determine the hospital's transfer amount as though that section were still in effect.

(3) The disproportionate share hospital payment amount for each nondesignated public hospital for each project year shall be the sum of the amounts computed under paragraph (1) less the amount determined for the hospital under paragraph (2).

(4) For purposes of the computations under this subdivision, the federal disproportionate share hospital allotment for California for each project year shall be the allotment effective during the federal fiscal year beginning during the project year.

(5) Notwithstanding any other provision of law, the transfer amounts from the Medi-Cal Inpatient Payment Adjustment Fund to the Health Care Deposit Fund, as provided for pursuant to paragraph (2) of subdivision (d) of Section 14163, shall be deemed to be eighty-five million dollars ($85,000,000) for purposes of the computations under this subdivision.

(6) Subdivision (m) of Section 14105.98 shall apply to payments made under this section.

(7) The federal share of the payment amounts determined under this subdivision and paid pursuant to this section, excluding the stabilization funding amounts allocated and paid pursuant to paragraph (2) of subdivision (i), shall be drawn from the allotment of federal funds for Medicaid disproportionate share hospital payment adjustments for California specified under Section 1396r-4(f) of Title 42 of the United States Code.

(d) To the extent necessary to compute and determine compliance with the hospital-specific disproportionate share hospital payment limitations described in paragraph (3) of subdivision (c) of Section 14166.3, nondesignated public hospitals shall comply with subdivisions (a), (b), and (d) of Section 14166.8.

(e) Two interim payments shall be made for the first portion of the project year, on October 1 and December 1 of each project year, as follows:

(1) The interim payments shall be made to each nondesignated public hospital identified on a tentative disproportionate share list for the project year that was also on the final disproportionate share list for the prior fiscal year. The interim payment amount for each hospital shall be paid in two

equal amounts on October 1 and December 1 of each project year, which combined shall equal five-twelfths of the total payments, excluding stabilization funds, made to the hospital for the prior fiscal year under this section, except that for the 2005–06 project year, the combined amount shall equal the amount that was payable to the hospital for the 2004–05 fiscal year under Section 14105.98, less the transfer amount assessed with respect to the hospital under Section 14163 for the same fiscal year, multiplied by five-twelfths. The interim payment amount may be adjusted to reflect any changes in the total payment amounts, excluding stabilization funds, projected to be made under this section for the project year.

(2) The computation of interim payments described in this subdivision shall be made promptly after the department issues the tentative disproportionate share hospital list for the project year.

(3) The first interim payment to each hospital for a project year shall be made no later than 60 days after the issuance of the tentative disproportionate share hospital list for the project year and shall include the interim payment amounts for all prior months in the project year. Subsequent interim payments for a project year shall be made on the last checkwrite of each month made by the Controller until interim payments for the first five months of the project year have been made.

(4) The department may recover any interim payments made under this subdivision for a project year to a hospital that is not on the final disproportionate share hospital list for the project year. These interim payments shall be considered an overpayment. The department shall issue a demand for repayment to a hospital at least 30 days prior to taking action to recover the overpayment. After the 30-day period, the department may recover the overpayment using any of the methods set forth in Section 14115.5 or subdivision (c) of Section 14172.5. Any offset shall be subject to Section 14115.5 or subdivision (d) of Section 14172.5. No other provision of Section 14172.5 shall be applicable with respect to the recovery of overpayments under this subdivision. A hospital may appeal the department's determination of an overpayment under this subdivision pursuant to the appeal procedures set forth in Sections 51016 to 51047, inclusive, of Title 22 of the California Code of Regulations, and seek judicial review of the final administrative decision pursuant to Section 14171, provided that the only issues that may be raised in the appeal are whether the hospital, but for inadvertent error by the department, was on the final disproportionate share list for the project year and whether the department's computation of the overpayment amount is correct. If the hospital is reinstated on the final disproportionate share list pursuant to Section 14105.98, the department shall promptly refund any amount recovered under this paragraph.

(f) Tentative adjusted monthly payments shall be made for December through March of each project year to each nondesignated public hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An adjusted payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, less the amount computed pursuant to Section 14163, each as most recently computed by the department as described in subdivision (c).

(2) A tentative adjusted monthly payment amount shall be computed for each hospital equal to the adjusted payment amount for the hospital, minus the aggregate interim payments made to the hospital for the project year, divided by seven.

(3) The computation of tentative adjusted monthly payments described in this subdivision shall be made promptly after the department issues the final disproportionate share hospital list for the project year.

(4) The first tentative adjusted monthly payment to each hospital for a project year shall be made by January 15 or within 60 days after the issuance of the final disproportionate share hospital list for the project year, whichever is later, and shall include the tentative adjusted monthly payment amounts for all prior months in the project year for which those payments are due. Subsequent tentative adjusted monthly payments for a project year shall be made on the last checkwrite of each month made by the Controller until tentative adjusted monthly payments for December through March of the project year have been made.

(g) Three data corrected payments shall be made on the last checkwrite of the month made by the Controller for the months of April through June of each project year to each nondesignated public hospital identified on the final disproportionate share hospital list for the project year, computed and paid as follows:

(1) An annual data corrected payment amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, less the amount computed pursuant to Section 14163, each as most recently computed by the department as described in subdivision (c). The annual data corrected payment amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the adjusted payment amounts computed under paragraph (1) of subdivision (d).

(2) A monthly data corrected payment amount shall be computed for each hospital equal to the annual data corrected payment amount for the hospital, minus both the aggregate interim payments made to the hospital for the project year and the aggregate tentative adjusted monthly payments made to the hospital, divided by three.

(h) Payment under subdivisions (e), (f), and (g) for a month shall be made only to hospitals open for patient care through the 15th day of the month.

(i) The department shall compute a final adjusted payment amount for each nondesignated public hospital on the final disproportionate share list for a project year after the completion of the project year and the determination of the amount of stabilization funding available to be paid under this section as follows:

(1) An amount shall be computed for each hospital equal to the sum of the total payment adjustment amount for the hospital computed pursuant to subdivision (am) of Section 14105.98, plus the supplemental lump-sum payment adjustment amount computed pursuant to subdivision (an) of Section 14105.98, less the amount computed pursuant to Section 14163, each as most recently computed by the department as described in subdivision (c). These amounts shall reflect data corrections, hospital closures, and other revisions made by the department to the annual data corrected payment amounts computed under paragraph (1) of subdivision (e) in a manner that ensures that any payments not payable or recouped are redistributed among hospitals eligible for a final adjusted payment amount in accordance with the calculations made pursuant to Section 14105.98.

(2) The department shall add to the amount computed for each hospital under paragraph (1) a pro rata share of any stabilization funding to be allocated and paid under this section allocated based on the amounts computed under paragraph (1). The federal share of any stabilization funding allocated and paid under this section shall not be drawn from the allotment of federal funding for Medicaid disproportionate share hospital payment adjustments for California specified under Section 1396r-4(f) of Title 42 of the United States Code.

(3) The department shall for each hospital for each project year reconcile the total amount computed for the hospital for the project year under subdivisions (c), (d), and (e) with the amount determined under paragraph (2). The department shall issue a report to each hospital setting forth the result of the reconciliation that shall include the department's computation, data, and identification of data sources. The department shall pay to the hospital any underpayment determined as a result of this reconciliation and collect from the hospital any overpayment determined as a result of this reconciliation.

(4) A hospital may seek to correct the department's data and computations under this section in accordance with the processes undertaken by the department to implement Section 14105.98 in effect during the 2004–05 fiscal year.

SEC. 12. Section 14166.17 of the Welfare and Institutions Code is amended to read:

14166.17. (a) The California Medical Assistance Commission shall negotiate payment amounts in accordance with the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) from the Nondesignated Public Hospital Supplemental Fund established pursuant to subdivision (b) for distribution to nondesignated public hospitals that satisfy the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

(b) The Nondesignated Public Hospital Supplemental Fund is hereby established in the State Treasury. For purposes of this section, "fund" means the Nondesignated Public Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One million nine hundred thousand dollars ($1,900,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the fund.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund.

(4) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(5) Any interest that accrues on amounts in the fund.

(e) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(f) Moneys in the funds shall be used as the source for the nonfederal share of payments to hospitals under this section.

(g) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(h) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracts negotiated under Article 2.6 (commencing with Section 14081), and shall not affect provider rates paid under the selective provider contracting program.

(i) Each nondesignated public hospital that was a nondesignated public hospital during the 2002–03 fiscal year, received payments for the 2002–03 fiscal year from any of the prior supplemental funds, and, during the project year satisfies the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections shall receive no less from the Nondesignated Public Hospital

Supplemental Fund for the project year than 100 percent of the amount the hospital received from the prior supplemental funds for the 2002–03 fiscal year, minus the total amount of intergovernmental transfers made by or on behalf of the hospital pursuant to Sections 14085.6, 14085.7, 14085.8, and 14085.9 for the same fiscal year. Each hospital described in this subdivision shall be eligible for additional payments from the fund pursuant to subdivision (j).

(j) All amounts that are in the fund for a project year in excess of the amount necessary to make the payments under subdivision (i) shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for supplemental payments to nondesignated public hospitals that for the project year satisfy the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to negotiate for distributions under any of those sections, and paid for services rendered during the project year pursuant to the selective provider contracting program under Article 2.6 (commencing with Section 14081).

(k) The amount of any stabilization funding transferred to the fund with respect to a project year may in the discretion of the California Medical Assistance Commission to be paid for services furnished in the same project year regardless of when the stabilization funds become available, provided the payment is consistent with other applicable federal or state legal requirements and does not result in a hospital exceeding any applicable reimbursement limitations.

(*l*) The department shall pay amounts due to a nondesignated hospital from the fund for a project year, with the exception of stabilization funding, in up to four installment payments, unless otherwise provided in the hospital's contract negotiated with the California Medical Assistance Commission, except that hospitals that are not described in subdivision (i) shall not receive the first installment payment. The first payment shall be made as soon as practicable after the issuance of the tentative disproportionate share hospital list for the project year, and in no event later than January 1 of the project year. The second and subsequent payments shall be made after the issuance of the final disproportionate hospital list for the project year, and shall be made only to hospitals that are on the final disproportionate share hospital list for the project year. The second payment shall be made by February 1 of the project year or as soon as practicable after the issuance of the final disproportionate share hospital list for the project year. The third payment, if scheduled, shall be made by April 1 of the project year. The fourth payment, if scheduled, shall be made by June 30 of the project year. This subdivision does not apply to hospitals that are scheduled to receive payments from the fund because they meet the criteria under Section 14085.7 but do not meet the criteria under Section 14085.6, 14085.8, or 14085.9.

(m) The department shall pay stabilization funding transferred to the fund in amounts negotiated by the California Medical Assistance

Commission and paid in accordance with the applicable contract or contract amendment.

(n) A nondesignated public hospital that receives payment pursuant to this section for a particular project year shall not submit a notice for the termination of its participation in the selective provider contracting program established pursuant to Article 2.6 (commencing with Section 14081) until the later of the following dates:

(1) On or after December 31 of the next project year.

(2) The date specified in the hospital's contract, if applicable.

SEC. 13. Section 14166.18 of the Welfare and Institutions Code is amended to read:

14166.18. (a) With respect to each project year, the director shall determine a baseline funding amount for each nondesignated public hospital that was an eligible hospital under paragraph (3) of subdivision (a) of Section 14105.98 for both the 2004–05 fiscal year and the project year. A hospital's baseline funding amount shall be an amount equal to the total amount paid to the hospital for inpatient hospital services rendered to Medi-Cal beneficiaries during 2004–05 fiscal year, including the following Medi-Cal payments, but excluding payments received under the Medi-Cal Specialty Mental Health Services Consolidation Program:

(1) Base payments under the selective provider contracting program as provided for under Article 2.6 (commencing with Section 14081) or the Medi-Cal state plan cost reimbursement system for inpatient hospital services for noncontracting hospitals.

(2) Emergency Services and Supplemental Payments Fund payments as provided for under Section 14085.6.

(3) Medi-Cal Medical Education Supplemental Payment Fund payments and Large Teaching Emphasis Hospital and Children's Hospital Medi-Cal Medical Education Supplemental Payment Fund payments as provided for under Sections 14085.7 and 14085.8, respectively.

(4) Small and Rural Hospital Supplemental Payments Fund payments as provided for under Section 14085.9.

(5) Disproportionate share hospital payment adjustments as provided for under Section 14105.98.

(6) Administrative day payments as provided for under Section 51542 of Title 22 of the California Code of Regulations.

(b) The baseline funding amount for each nondesignated public hospital shall reflect a reduction for the total amount of intergovernmental transfers made pursuant to Sections 14085.6, 14085.7, 14085.8, 14085.9, and 14163 for the 2004–05 state fiscal year by the nondesignated public hospital, or on its behalf by the governmental entity with which it is affiliated.

(c) The aggregate nondesignated public hospital baseline funding amount shall be the sum of all baseline funding amounts determined under subdivision (a), as adjusted by subdivision (b).

(d) With respect to each project year beginning after the 2005–06 project year, an aggregate nondesignated public hospital adjusted baseline funding amount shall be determined as follows:

(1) The department shall determine the aggregate total Medi-Cal revenue, using amounts determined under subdivision (a), as adjusted by subdivision (b), but excluding the reductions for the amount of intergovernmental transfers made pursuant to Section 14163, with respect to inpatient hospital services rendered during the 2004–05 fiscal year, for nondesignated public hospitals that were eligible hospitals under paragraph (3) of subdivision (a) of Section 14105.98 for the project year, less the total amount of disproportionate share hospital payments identified in paragraph (5) of subdivision (a) for those hospitals.

(2) The department shall determine the aggregate total Medi-Cal revenue paid or payable for inpatient hospital services rendered during the fiscal year preceding the project year for which the nondesignated public hospital adjusted baseline funding amount is being calculated for the nondesignated public hospitals described in paragraph (1). The aggregate total revenue for services rendered in the particular preceding fiscal year shall include the payments that are described under paragraphs (1) and (6) of subdivision (a), and all other payments made to nondesignated public hospitals under this article, excluding disproportionate share hospital payments pursuant to Section 14166.16, stabilization funding pursuant to Section 14166.19, and distressed hospital funding pursuant to Section 14166.23 and paragraph (3) of subdivision (b) of Section 14166.20.

(3) The department shall:

(A) Calculate the difference between the amount determined under paragraph (1) and the amount determined under paragraph (2).

(B) Determine the percentage increase or decrease by dividing the difference in subparagraph (A) by the amount in paragraph (1).

(C) Apply the percentage determined in subparagraph (B) to the amount that results from both of the following:

(i) Aggregating the nondesignated public hospital baseline funding amounts determined under subdivision (a), as adjusted by subdivision (b), but excluding the reductions for the amount of intergovernmental transfers made pursuant to Section 14163.

(ii) Subtracting from the amount in clause (i) the total amount of disproportionate share hospital payments in paragraph (5) of subdivision (a) for those hospitals.

(D) The aggregate nondesignated public hospital adjusted baseline funding amount is the amount determined in subdivision (c), plus the resulting product determined in subparagraph (C).

SEC. 14. Section 14166.20 of the Welfare and Institutions Code is amended to read:

14166.20. (a) With respect to each project year, the total amount of stabilization funding shall be the sum of the following:

(1) Federal Medicaid funds available in the Health Care Support Fund, established pursuant to Section 14166.21, reduced by the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, project year private DSH

hospitals in the aggregate, and nondesignated public hospitals in the aggregate as determined in Sections 14166.5, 14166.13, and 14166.18, respectively, taking into account all other payments to each hospital under this article. This amount shall be not less than zero.

(2) The state general funds that were made available due to the receipt of federal funding for previously state-funded programs through the safety net care pool and any federal Medicaid hospital reimbursements resulting from these expenditures, unless otherwise recognized under paragraph (1), to the extent those funds are in excess of the amount necessary to meet the baseline funding amount, or the adjusted baseline funding amount, as appropriate, for project years after the 2005–06 project year for each designated public hospital, for project year private DSH hospitals in the aggregate, and for nondesignated public hospitals in the aggregate, as determined in Sections 14166.5, 14166.13, and 14166.18, respectively.

(3) To the extent not included in paragraph (1) or (2), the amount of the increase in state General Fund expenditures for Medi-Cal inpatient hospital services for the project year for project year private DSH hospitals and nondesignated public hospitals, including amounts expended in accordance with paragraph (1) of subdivision (c) of Section 14166.23 that exceeds the expenditure amount for the same purpose and the same hospitals in the 2004–05 state fiscal year, and any direct grants to designated public hospitals for services under the demonstration project.

(4) To the extent not included in paragraph (2), federal Medicaid funds received by the state as a result of the General Fund expenditures described in paragraph (3).

(5) The federal Medicaid funds received by the state as a result of federal financial participation with respect to Medi-Cal payments for inpatient hospital services made to project year private DSH hospitals for services rendered during the project year, the state share of which was derived from intergovernmental transfers or certified public expenditures of any public entity that does not own or operate a public hospital.

(b) With respect to the 2005–06 and 2006–07 project years, the stabilization funding determined under subdivision (a) shall be allocated as follows:

(1) Eight million dollars ($8,000,000) shall be paid to San Mateo Medical Center. All or a portion of this amount may be paid as disproportionate share hospital payments in addition to the hospital's allocation that would otherwise be determined under Section 14166.6. The amount provided for in this paragraph shall be disregarded in the application of the limitations described in paragraph (3) of subdivision (a) of Section 14166.6, and in paragraph (1) of subdivision (a) of Section 14166.7.

(2) (A) Ninety-six million five hundred thousand dollars ($96,500,000) shall be allocated to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty-two million five hundred thousand dollars ($42,500,000) shall be allocated to private DSH hospitals to be paid in accordance with Section 14166.14.

(C) In the event that stabilization funding is less than one hundred forty-seven million dollars ($147,000,000), the amounts allocated to designated public hospitals and private DSH hospitals under this paragraph shall be reduced proportionately.

(3) An amount equal to the lesser of 10 percent of the total amount determined under subdivision (a) or twenty-three million five hundred thousand dollars ($23,500,000) shall be made available for additional payments to distressed hospitals that participate in the selective provider contracting program under Article 2.6 (commencing with Section 14081), including designated public hospitals, in amounts to be determined by the California Medical Assistance Commission. The additional payments to designated public hospitals shall be negotiated by the California Medical Assistance Commission, but shall be paid by the department in the form of a direct grant rather than as Medi-Cal payments.

(4) An amount equal to 0.64 percent of the total amount determined under subdivision (a), to nondesignated public hospitals to be paid in accordance with Section 14166.19.

(5) The amount remaining after subtracting the amount determined in paragraphs (1) to (4), inclusive, shall be allocated as follows:

(A) Sixty percent to designated public hospitals to be paid in accordance with Section 14166.75.

(B) Forty percent to project year private DSH hospitals to be paid in accordance with Section 14166.14.

(c) By April 1 of the year following the project year for which the payment is made, and after taking into account final amounts otherwise paid or payable to hospitals under this article, the director shall calculate in accordance with subdivision (a), allocate in accordance with subdivision (b), and pay to hospitals in accordance with Sections 14166.75, 14166.14, and 14166.19, as applicable, the stabilization funding.

(d) For purposes of determining amounts paid or payable to hospitals under subdivision (c), the department shall apply the following:

(1) In determining amounts paid or payable to designated public hospitals that are based on allowable costs incurred by the hospital, or the governmental entity with which it is affiliated, the following shall apply:

(A) If the final payment amount is based on the hospital’s Medicare cost report, the department shall rely on the cost report filed with the Medicare fiscal intermediary for the project year for which the calculation is made, reduced by a percentage that represents the average percentage change from total reported costs to final costs for the three most recent cost reporting periods for which final determinations have been made, taking into account all administrative and judicial appeals. Protested amounts shall not be considered in determining the average percentage change unless the same or similar costs are included in the project year cost report.

(B) If the final payment amount is based on costs not included in subparagraph (A), the reported costs as of the date the determination is made under subdivision (c), shall be reduced by 10 percent.

(C) In addition to adjustments required in subparagraphs (A) and (B), the department shall adjust amounts paid or payable to designated public hospitals by any applicable deferrals or disallowances identified by the federal Centers for Medicare and Medicaid Services as of the date the determination is made under subdivision (c) not otherwise reflected in subparagraphs (A) and (B).

(2) Amounts paid or payable to project year private DSH hospitals and nondesignated public hospitals shall be determined by the most recently available Medi-Cal paid claims data increased by a percentage to reflect an estimate of amounts remaining unpaid.

(e) The department shall consult with hospital representatives regarding the appropriate calculation of stabilization funding before stabilization funds are paid to hospitals. The calculation may be comprised of multiple steps involving interim computations and assumptions as may be necessary to determine the total amount of stabilization funding under subdivision (a) and the allocations under subdivision (b). No later than 30 days after this consultation, the department shall establish a final determination of stabilization funding that shall not be modified for any reason other than mathematical errors or mathematical omissions on the part of the department.

(f) The department shall distribute 75 percent of the estimated stabilization funding on an interim basis throughout the project year.

(g) The allocation and payment of stabilization funding shall not reduce the amount otherwise paid or payable to a hospital under this article or any other provision of law, unless the reduction is required by the demonstration project's Special Terms and Conditions or by federal law.

SEC. 15. Section 14166.21 of the Welfare and Institutions Code is amended to read:

14166.21. (a) The Health Care Support Fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this article. The fund shall include any interest that accrues on amounts in the fund.

(b) Amounts in the Health Care Support Fund shall be paid in the following order of priority:

(1) To hospitals for services rendered to Medi-Cal beneficiaries and the uninsured in an amount necessary to meet the aggregate baseline funding amount, or the adjusted aggregate baseline funding amount for project years after the 2005-06 project year, as specified in subdivision (d) of Section 14166.5, subdivision (b) of Section 14166.13, and Section 14166.18, taking into account all other payments to each hospital under this article, except payments made from the Distressed Hospital Fund pursuant to Section 14166.23 and payments made to distressed hospitals pursuant to paragraph (3) of subdivision (b) of Section 14166.20. If the

amount in the Health Care Support Fund is inadequate to provide full aggregate baseline funding, or adjusted aggregate baseline funding, to all designated public hospitals, project year private DSH hospitals, and nondesignated public hospitals, each group's payments shall be reduced pro rata.

(2) To the extent necessary to maximize federal funding under the demonstration project and consistent with Section 14166.22, the department may claim safety net care pool funds based on health care expenditures incurred by the department for uncompensated medical care costs of medical services provided to uninsured individuals, as approved by the federal Centers for Medicare and Medicaid Services.

(3) Stabilization funding, allocated and paid in accordance with Sections 14166.75, 14166.14, and 14166.19, and paragraph (3) of subdivision (b) of Section 14166.20.

(4) Any amounts remaining after final reconciliation of all amounts due at the end of a project year shall remain available for payments in accordance with this section in the next project year.

SEC. 16. Section 14166.23 of the Welfare and Institutions Code is amended to read:

14166.23. (a) For purposes of this section, "distressed hospitals" are hospitals that participate in selective providers contracting under Article 2.6 (commencing with Section 14081) and that meet all of the following requirements, as determined by the California Medical Assistance Commission in its discretion:

(1) The hospital serves a substantial volume of Medi-Cal patients measured either as a percentage of the hospital's overall volume or by the total volume of Medi-Cal services furnished by the hospital.

(2) The hospital is a critical component of the Medi-Cal program's health care delivery system, such that the Medi-Cal health care delivery system would be significantly disrupted if the hospital reduced its Medi-Cal services or no longer participated in the Medi-Cal program.

(3) The hospital is facing a significant financial hardship that may impair its ability to continue its range of services for the Medi-Cal program.

(b) The Distressed Hospital Fund is hereby created in the State Treasury.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) The amounts transferred to the fund pursuant to subdivision (e).

(2) Any additional amounts appropriated to the fund by the Legislature.

(3) Any interest that accrues on amounts in the fund.

(e) The following amounts shall be transferred to the fund from the prior supplemental funds at the beginning of each project year.

(1) Twenty percent of the amount in the prior supplemental funds on the effective date of this article, less any and all payments for services rendered prior to July 1, 2005, but paid after July 1, 2005.

(2) Interest that accrued on the prior supplemental funds during the prior project year.

(f) No distributions, payments, transfers, or disbursements shall be made from the prior supplemental funds except as set forth in this section.

(g) Moneys in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section.

(h) Except as otherwise provided in subdivision (j), moneys shall be applied to obtain federal financial participation to the extent available in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracting program, and shall not affect provider rates paid under the selective provider contracting program.

(i) Subject to subdivision (j), all amounts that are in the fund shall be available for negotiation by the California Medical Assistance Commission, along with corresponding federal financial participation, for additional payments to distressed hospitals. These amounts shall be paid under contracts entered into by the department and negotiated by the California Medical Assistance Commission pursuant to Article 2.6 (commencing with Section 14081), provided that any amounts payable to a designated public hospital shall be paid in the form of a direct grant of state general funds pursuant to a contract negotiated by the California Medical Assistance Commission.

(j) After April 1, 2007, and each April 1 thereafter, in the event that funding under this article is insufficient to meet the adjusted aggregate baseline funding amounts for a particular project year, as determined in subdivision (d) of Section 14166.5, and in Sections 14166.13 and 14166.18, funds under this section shall first be available for use under contracts negotiated by the California Medical Assistance Commission for hospitals contracting under the selective provider contracting program under Article 2.6 (commencing with Section 14081) in an effort to address the insufficiency, to the extent funds under this section are available on or after April 1 for the particular project year.

(k) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

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